
(1986) 07 PAT CK 0005

In the Patna High Court

Case No : Criminal Revision No. 499 of 1986

Prasant Kumar Sah and anothers

APPELLANT

Vs

The State of Bihar

RESPONDENT

Date of Decision : 23-07-1986

Acts Referred:

Prevention of Food Adulteration Act, 1954 — Section 16(1)(a)

Citation : (1986) PLJR 1034

Hon'ble Judges : A.P. Sinha, J

Bench : Single Bench

Advocate : G.C. Bharuka, Navniti Prasad Singh and Ramesh Kumar Agrawal, for the Appellant; Ganesh Prasad Jaiswal for the State, for the Respondent

Final Decision : Allowed

Judgement

Anand Prasad Sinha, J.—This application is directed against the impugned order by which the petitioners have been found guilty for the offence punishable u/s 16(1)(a) of the Prevention of Food Adulteration Act and each of them has been sentenced to undergo rigorous imprisonment for six months and to pay a fine of Rs. 1000/- each and in default to undergo rigorous imprisonment for one month each. The prosecution case, briefly stated, is that a sample of ghee had been obtained and had been sent for chemical examination whereafter it was detected that the ghee was adulterated with till. The learned Advocate has stated that as a matter of fact the complaint had been filed on 1.4.76 about the said occurrence with the same allegations. Thereafter, after framing of the charge at the instance of the complainant the complaint petition was sought to be withdrawn on 8.7.1978 and the learned Magistrate had permitted the case to be withdrawn with liberty to file a fresh complaint. Further it appears that since there was a lacuna in the sanction order that has been made the basis for the withdrawal of the complaint petition.

2. The learned counsel appearing for the petitioners has submitted that since the petitioners had been once charged of the same offence and on the same

allegations they could not have been put on trial again for the same offence. It has been resisted by Mr. Jaiswal by saying that if on technical ground the complaint has been withdrawn with the permission of the Court then in that case absolutely there is no legal bar in filing the second complaint.

3. In support of his submission Mr. Jaiswal relied upon a decision of the Rajasthan High Court in Ram Lal Babu Ram v. The State (A.I.R. 1964 R 211).

4. I am afraid both on the basis of the submission and also the decision in State of Karnataka Vs. K.H. Annegowda and Another, when a charge is framed and thereafter acquittal takes place then all the consequences and advantage of a person acquitted of the charge have to be with that person and those cannot be snatched away in the manner in which it has been done in this case. Moreover, permission accorded by the Magistrate is irrelevant as absolutely there is no such provision in law that any complaint can be withdrawn for re-filing with the permission of the Court, Further it would appear that when the sanction was not in accordance with law and thereafter when once a person has been acquitted, any prosecution sought after removing the lacuna cannot be said to be in the universal rule of fair trial.

5. It is apparent in this case that the complaint had been filed in 1976, that is, two years back and after covering such a long period finality has not been reached. Therefore, on a deep consideration of the entire matter, the second complaint will stand as a bar and thus the order of conviction and sentence passed against the petitioners cannot be said to be in accordance with law. In this view of the matter, the application is allowed and the conviction and sentence passed against the petitioners are set aside.